LEGISLATIVE UPDATE AND TAX REMINDERS

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Recent Pension Changes

The Pension Protection Act of 2006, **PPA**, is now over a year old and because of its sheer size, weighing in at an astounding 900 pages, the full impact is yet to be felt. Operationally, plans are required to implement most provisions by the first day of the 2008 Plan Year. However, plan amendments are generally not required until the end of the 2009 Plan Year. The PPA, not only entirely revamps the funding rules for all Defined Benefit Plans, but also makes countless changes affecting all types of Qualified Retirement Plans.

PPA Provisions Affecting All Plans

- **The Special Tax Notice** and the Qualified Joint and Survivor explanation can be provided up to 180 days (up from 90 days) before distribution commences.
- **A Qualified Optional Survivor Annuity** is now required for non-exempt annuity plans in addition to the 50% Qualified Joint and Survivor Annuity. Generally, the optional survivor annuity will be a 75% Joint and Survivor Annuity.
- **Benefit Statements** must automatically be provided once per calendar quarter for participant directed plans (including a notice which stresses the importance of diversification) and annually for non-participant directed plans. Defined Benefit Plans must provide statements once every three years. Some plans may find it difficult to meet the new 45 day deadline.

PPA Provisions Affecting Defined Contribution Plans

- **More Rapid Vesting** is required for all Defined Contribution Plans. The new requirements extend the matching contribution vesting schedule to all employer contributions. Therefore, all employer contributions must vest as least as rapidly as under a three year cliff vesting schedule or a six year graded schedule.
- **A New Safe Harbor 401(k)** alternative, dubbed QACA, Qualified Automatic Contribution Arrangement, calls for Automatic Enrollment beginning at 3% of salary with automatic increases of an additional 1% each year until 6% of salary is attained. The new matching safe harbor lowers the match to 100% of the first 1% plus 50% of the next 5%, producing a maximum match of 3½% (the current maximum match is 4%). A QACA delays vesting to 2 years rather than the immediate vesting under the old safe-harbors. The non-matching safe harbor remains the same at 3% of salary for all non-highly compensated employees and requires immediate vesting.

PPA Provisions Affecting Defined Benefit Plans

- **Funding Rules for Single-Employer Plans** are entirely revamped. Generally, the annual funding requirement will be a plan's normal cost plus a seven-year amortization of any funding shortfall. The actuarial assumptions are prescribed by the PPA and use interest rates derived from a corporate bond "yield curve". The real effect of this change is largely dependent on the level of interest rates in 2008.
- **Multi-Employer Plan Funding Rules** are basically unchanged for well funded plans except for shortened amortization periods for future benefit increases. However, if a plan is significantly underfunded, coined as endangered (less than 80% funded) or critical (less than 65% funded), a funding improvement or rehabilitation plan must be adopted.
- **Single Sum Distributions** will now be calculated using a "yield curve" similar to the new funding rules but phased in over a 4 year period. The anticipated effect of lower single sums at higher interest rates is almost fully offset by a new required mortality table. Although over the next 3 years, as the new interest rates are phased in, single sum distributions will be significantly lower.
- **The Maximum Deduction** was increased to the excess of 150% (140% for Multi-Employer Plans) of the Plan's Current Liability over the value of Plan assets. Also a combination of a DB Plan with a DC Plan is exempt from the 25% Combined Plan Deduction Limit as long as the DC plan's employer contributions are 6% or less.

IRS Dollar Limits for Retirement Plans	2005	2006	2007	2008
Elective 401(k) and 403(b) Deferrals	$ 14,000	$ 15,000	$ 15,500	$ 15,500
Catch-up Contributions (over age 50)	4,000	5,000	5,000	5,000
Maximum Defined Contribution Limit	42,000	44,000	45,000	46,000
Maximum Defined Benefit Limit	170,000	175,000	180,000	185,000
Maximum Compensation Limit	210,000	220,000	225,000	230,000

Miscellaneous

- Fidelity Bond maximum increased from $500,000 to $1 Million.
- Blackout periods require minimum of 30 days advance notice.
- Increase in the flat rate and variable PBGC premiums.
- Contributions must be made by your tax-filing time with extensions to be deductible and must be made within 8 ½ months of the Plan Year end if subject to Minimum Funding Standards.
- Controlled Groups are treated as a single employer for all retirement plan purposes.
- Sub-S pass through income is not compensation for Plan purposes.